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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,614	11/04/2003	Daniel James Kinne	9422L	6503

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EXAMINER
CHAN, SING P

ART UNIT	PAPER NUMBER
1734	

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/700,614	KINNE ET AL.
	Examiner	Art Unit
	Sing P Chan	1734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 16-19 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-15 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 27 February 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>11/4/03, 2/26/04, 6/11/04</u>	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

**DETAILED ACTION**

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-15, drawn to an applicator for applying a sheet material, classified in class 156, subclass 574.
  - II. Claims 16-19, drawn to a method of applying a sheet material, classified in class 156, subclass 71.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus as claimed can be used to practice another and materially different process such as smoothing polymeric coatings.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, the search required for Group I is not required for Group II, and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.
4. During a telephone conversation with Larry L. Huston on January 25, 2005 a provisional election was made with traverse to prosecute the invention of group I, claims 1-15. Affirmation of this election must be made by applicant in replying to this Office

action. Claims 16-19 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Priority***

6. An application in which the benefits of an earlier application are desired must contain a specific reference to the prior application(s) in the first sentence(s) of the specification or in an application data sheet by identifying the prior application by application number (37 CFR 1.78(a)(2) and (a)(5)). If the prior application is a non-provisional application, the specific reference must also include the relationship (i.e., continuation, divisional, or continuation-in-part) between the applications except when the reference is to a prior application of a CPA assigned the same application number. The first sentence of the specification does contain reference to a prior application but does not include the relationship between the applications.

***Specification***

7. The disclosure is objected to because of the following informalities: The Specification recites priority to U.S. Application Serial No. 10/458,520, now pending.

However, this application has been patented and “now pending” should be “now U.S. Patent No. 6,808,586.”

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-7, 9, 11, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Buske (U.S. 3,907,628).

Regarding claim 1, Buske discloses an apparatus for applying a sheet material. The apparatus includes two convex presser edges, (20 and 22) two protuberances, (24 and 26) and two brushing strips, which brush away any loose particles and also provide additional pressing means, which are all burnishes. (Col 3, lines 22-36, Col 5, lines 57-60, and Figure 1-4)

Regarding claims 2, 11, and 12, the burnishes as disclosed by Buske are flat. (Figures 1-4)

Regarding claim 3, the burnishes as disclosed by Buske includes an extrapolated vertex and offset from the burnishes. (Figures 1-4)

Regarding claim 4, the surfaces of the burnishes as disclosed by Buske includes angle of at least 270°.

Regarding claim 5, the brushing strips as disclosed by Buske are of mutually different materials than the presser edges and protuberances. (Col 3, line 62 to Col 4, line 11)

Regarding claim 6, Buske discloses the burnishes subtend an angle of less than 180° opposite the surface of the burnishes and a guide member (12), which allow sheet material to be inserted into a cavity (14) and function as a holder.

Regarding claim 7, Buske discloses the apparatus includes a cavity (14), which is disposed above one of the burnish when disposed against a vertical substrate. (Figures 1-4)

Regarding claim 9, Buske discloses the apparatus is form of any suitable materials, which is considered to include compliant material. (Col 3, line 62 to Col 4, line 11)

10. Claims 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Lake (U.S. 4,210,485).

Regarding claim 13, Lake discloses an apparatus for applying wallpaper. The apparatus includes a pair of plastic rollers (15 and 16), i.e. burnishes, which have arcuate surfaces, each rotatably mounted on the open ends of "U" shaped bars (17 and 18) and being disposed in a convex noncoplanar relationship relative to an inside corner formed by a substrate. (Col 3, line 45 to Col 4, line 14 and Figures 3-5)

Regarding claim 14, Lake discloses the burnishes are convexly disposed and subtend an angle of at least 180°. (Figures 3-5)

Regarding claim 15, Lake discloses the burnishes are hinged together and capable of articulable about relative to each other. (Figures 3-5)

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

12. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buske (U.S. 3,907,628) as applied to claim 1 above, and further in view of Shannon (U.S. 4,806,184).

Buske as disclosed above does not disclose a control bar for attachment to a sheet material. However, providing a control bar for attachment to the sheet material is well known and conventional as shown for example by Shannon. Shannon discloses a wallpaper applicator. The applicator includes a roller tension assembly, i.e. control bar, which includes rollers (55) rotatably mounted on one end of a H-shape yoke (52) and when the rollers (55) are deployed to biases the against the sheet roller assembly, which biases against the sheet materials and retracted to a standby position when not in use, wherein the control bar is capable of being juxtaposed with a corner formed by the substrate. (Col 6, line 1-37 and Figures 6 and 12)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a control bar capable of being juxtaposed with a corner formed by the substrate and deployed or retracted for attachment to the sheet material

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and a material roller assembly as disclosed by Shannon in the apparatus of Buske to provide a tensioning means to maintain the material in rolled form on the roller assembly. (Col 3, lines 16-24)

13. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buske (U.S. 3,907,628) as applied to claim 9 above, and further in view of Takahashi (U.S. 4,026,648).

Buske as disclosed above does not disclose at least one burnish comprises felt. Buske does disclose a brushing strip for brushing loose particles and considered to be capable of also function as an additional burnish. And using felt to brush or clean loose particles from a surface is well known and conventional as shown for example by Takahashi. Takahashi discloses a cleaning means to remove particles from a surface includes paper, a pad with a sponge, felt, brush, or a cleaning blade such as rubber or plastic, (Col 5, lines 20-51) which are all equivalents.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide at least one burnish comprising felt or any other material as disclosed by Takahashi in the apparatus of Buske as to provide any means, which are equivalent to press and burnish the sheet material onto a surface.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sing P Chan whose telephone number is 571-272-1225. The examiner can normally be reached on Monday-Friday 7:30AM-11:00AM and 12:00PM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher A Fiorilla can be reached on 571-272-1187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chan Sing P  
spc

  
CHRIS FIORILLA  
SUPERVISORY PATENT EXAMINER

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